IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Writ Petition No. 7563 of 2005

Kalyan Dombivli Municipal
Corporation and another ..Petitioners

vs.

Mr.Sunil Kisan Power and ors. ..Respondents

Shri A.S.Rao for petitioner.
Shri Y.M.Pendse for respondent nos. 1 to 3.

CORAM: S.B.MHASE J.
8th August,2006

P.C.

1. Heard the learned Counsel.

2. Admittedly the respondents were appointed as a peons along with so many persons. Inspite of their appointments as peon they were working as clerks with the petitioner Corporation. There were 23 posts of clerks available in the year 1997 and those posts were to be filled in by promotion from the category of peons. However, 23 persons who were working as peons were promoted by the petitioner neglecting their seniority in the cadre of peon and thereby the claim of the respondents was not considered for the said post of clerks on promotion. Thus promotion was denied by the petitioner. In the result, juniors to them were promoted. It requires to be stated that it is not the case of the petitioner that all those persons

who were eligible for promotion were taken into the consideration zone and were considered by the Committee constituted for that purpose and thereafter the promotions were effectedd. Therefore, it is eloquently clear that the promotions were effected without following any procedure and following the rule of select by choice of the petitioner. There is no rational to the selection of 23 persons and, therefore, the Labour and Industrial Courts have rightly held that it is violative of items 5 and 9 of Schedule IV of the Act. No interference is called for. Petition is dismissed.

(S.B.MHASE J.)